D.B. CIVL WRIT PETITION (PIL) NO.2479/2005.
(Manohar Singh Vs. State of Rajasthan)

Date : 06.05.2005.

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.Sudheer Sharma, for the petitioners.
Mr.B.L.Purohit, for the respondents.
Mr.H.R. Soni, Addl. Govt. Advocate.

By way of instant petition under the label of public interest litigation the petitioners have raised grievance with respect to the construction of the houses of ***Shelter less land***.

It is averred that in the housing board scheme No.2 Kudi Bhagtasani have been made allotments in the irrational way on account of which no open space left for park, community hall or other utility places like play ground etc. in sector No.2.

A counter has been filed supported by an affidavit of Shri A.L. Purohit, Dy. Commissioner (Housing), denying all the allegations made by the petitioners. It is averred that the housing scheme was framed in Kudi Bhagtasani area in different sectors. The scheme has been sanctioned by the Chief Town Planner. In this scheme, residential areas were demarcated. Some part of the residential areas has been marked as ***shelter***

less. These areas are reserved for the construction of houses for the poor people who cannot afford to purchase costly houses. It is not necessary to give the details of the scheme except to extract para 9 of the reply as follows:-

> "9. That as per general town planning principles, the land use analysis for the housing scheme is as under:-
>
> (i) Residential 40-55%
> (ii) Road 25-30%
> (iii) Open space 5-12%
> (iv) OC 2-5% [Health Facility, Public Utility, Educational]
> (v) Commercial 1-5%
>
> The area left as shelter less is within the limits of residential area of the Scheme.
>
> So far as Kudi Bhagdasani residential Scheme is concerned, it consists of eight sectors. All the sectors are adjacent to each other. The community centers have been constructed in some of the Sectors like one in Sector 3. This will be evident from the plan. Community center in Sector 3 is out of walking existence from petitioners houses in Sector 2 community center in Sector 4 is under construction. Construction is most complete."

The plan was shown to us. On consideration of the entire mater, we are of the view that there is no substance in the allegations made by the petitioners. It is submitted by the learned counsel for the petitioners that the averments made in the reply to the writ petition are not correct. The wood land shown in the map is not going to be used for park. The

respondent housing board has been allotting the land indiscriminately and the day may come when no space is left. We have no reason to disbelieve the averments made in the reply to the writ petition. The space left in the name of "wood land" shall be taken as a space for park. It will not be used for any other purposes. It will be open for the petitioners and any other citizen to take an appropriate proceedings including prosecution against the authorities of the housing board, if the said land is used otherwise.

With this observation, the petition stands disposed of.

(MANAK MOHTA),J. **(N.N.MATHUR),J**

ashwini/-